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EXAMINER

BURGESS, BARBARA N

ART UNIT	PAPER NUMBER
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2157

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/931,896	<b>Applicant(s)</b> LESSARD ET AL.	
	<b>Examiner</b> Barbara N. Burgess	<b>Art Unit</b> 2157	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 03 April 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This Office Action is in Amendment filed April 3, 2007. Claims 1-26 are presented for further examination.

#### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-2, 4, 6, 9, 12-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Giniger et al. (hereinafter "Giniger", US Patent No 6,199,045 B1) in view of Dussell et al. (hereinafter "Dussell", US Patent 5,938,721).

As per claim 1, Giniger discloses a system for the creation and management of location bookmarks, each of said location bookmarks relating to a location, said system comprising:

a) a data server comprising;

- i) processor means for processing data (column 5, lines 64-67, column 6, lines 1-5, column 8, lines 41-47);
- ii) means for encoding data elements relating to said location (column 7, lines 10-12, column 11, lines 35-38, column 12, lines 20-23);
- iii) means for storing said data elements on a storage medium (column 11, lines 38-39, column 12, lines 25-26, 34-35);

iv) means for selectively accessing said data (column 6, lines 1-5, column 8, lines 61-64, column 12, lines 33-37);

v) data transceiver means (column 6, lines 5-7, column 8, lines 64-65, column 11, lines 59-61, column 12, lines 43-45, column 13, lines 18-19);

b) at least one user device comprising:

i) means for determining the position of said location (column 5, lines 48-55, column 8, lines 23-25, 54-57);

iii) data transceiver means (column 12, lines 20-23, column 13, lines 31-33, column 18, lines 21-23);

c) A data communication network adapted to connect said user device to said data server (column 5, lines 50-61, column 8, lines 15-34).

Giniger does not explicitly disclose:

ii) means for creating said data elements relating to said location.

However, in an analogous art, Dussell discloses a mobile device enabling geographic coordinates of a first location to be associated with a descriptor such as a task descriptor (text and/or voice message). The descriptor is associated with a location reference such as geographic coordinates or geocode (column 7, lines 22-30, column 8, lines 27-40).

Therefore, one of ordinary skill in the art at the time the invention was made would have found it obvious to implement or incorporate Dussell's means for creating

data elements relating to location in Giniger's system enabling users to accomplish a task.

As per claim 2, Giniger does not explicitly disclose in which the data elements are adapted to contain data representations of:

- a) the geographical position of the location;
- b) a user-created identifier associated with the location.

However, in an analogous art, Dussell discloses a device having GPS location means and is able to take a record of current location information. The information describes the physical location of the user and device. The user can also set specific alarm events for each location causing an output signal to be generated when the device returns to a particular location (column 7, lines 33-40, column 8, lines 13-25, 31-44).

Therefore, one of ordinary skill in the art at the time the invention was made would have found it obvious to implement or incorporate Dussell's data elements representing the geographical position and a user-created identifier associated with the location in Giniger's system enabling information to be displayed as highlighted markers on a map.

As per claim 4, Giniger does not explicitly disclose a system as claimed in claim 2 wherein said identifier is one or more of the following:

- a) a text;
- b) a video recording;
- c) an audio recording;

d) an image.

However, in an analogous art, Dussell discloses a device having GPS location means and is able to take a record of current location information. The information describes the physical location of the user and device. The user can also set specific alarm events for each location causing an output signal to be generated when the device returns to a particular location. This alarm event can be text and/or voice message (column 7, lines 24-26).

Therefore, one of ordinary skill in the art at the time the invention was made would have found it obvious to implement or incorporate Russell's identifier is one or more of text, video recording, audio recording, and image in Giniger's system enabling the user to associate text strings with locations.

As per claim 6, Giniger does not explicitly disclose a system as claimed in claim 4 further comprising data elements which are adapted to contain data representations of the identification of the author of the bookmark.

However, in an analogous art, Dussell discloses providing location information to describe the physical location of the user and device. The user can also set specific alarm events for each location causing an output signal to be generated when the device returns to a particular location. This alarm event can be text and/or voice message (column 7, lines 24-26).

Therefore, one of ordinary skill in the art at the time the invention was made would have found it obvious to implement or incorporate Russell's data elements which

are adapted to contain data representations of the identification of the author of the bookmark in Giniger's system enabling the user to associate text strings with locations.

As per claim 9, Giniger does not explicitly disclose in which the data elements are adapted to contain data representations of:

- a) the geographical position of the location;
- b) an identifier associated with the location.

However, in an analogous art, Dussell discloses a device having GPS location means and is able to take a record of current location information. The information describes the physical location of the user and device. The user can also set specific alarm events for each location causing an output signal to be generated when the device returns to a particular location (column 7, lines 33-40, column 8, lines 13-25, 31-44).

Therefore, one of ordinary skill in the art at the time the invention was made would have found it obvious to implement or incorporate Russell's data elements representing the geographical position and an identifier associated with the location in Giniger's system enabling information to be displayed as highlighted markers on a map.

As per claim 12, Giniger discloses a method allowing an end user to create and store information concerning a location, said method using a system comprising a data server, at least a user device and a data communication network, said method comprising the steps of:

- a) determining the geographical position of the location using said user device (column 5, lines 12-15, 49-67, column 7, lines 6-8, column 8, lines 15-21, 45-51);

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b) identifying or creating additional data associated to said location (column 6, lines 1-5, column 8, lines 61-64, column 12, lines 33-37);

d) transmitting said record from said user device to said data server using said data communication network (column 12, lines 20-23, column 13, lines 31-33, column 18, lines 21-23);

e) storing said record in said data server (column 11, lines 38-39, column 12, lines 25-26, 34-35).

Giniger does not explicitly disclose:

c) creating a record comprising said position and said additional data elements using said user device.

However, in an analogous art, Dussell discloses a mobile device enabling geographic coordinates of a first location to be associated with a descriptor such as a task descriptor (text and/or voice message). The descriptor is associated with a location reference such as geographic coordinates or geocode (column 7, lines 22-30, column 8, lines 27-40).

Therefore, one of ordinary skill in the art at the time the invention was made would have found it obvious to implement or incorporate Dussell's means for creating data elements relating to location in Giniger's system enabling users to accomplish a task.

As per claim 13, Giniger discloses a method as claimed in claim 12 wherein the said record is created by the user of a wireless device (column 8, lines 15-34).



As per claim 14, Giniger discloses a method as described in claim 12 wherein said record is created by the user of a wired device (column 8, lines 15-34).

As per claim 15, Giniger discloses a method as claimed in claim 13 wherein said wireless device is a cellular telephone (column 8, lines 15-34).

As per claim 16, Giniger discloses a method as claimed in claim 12 wherein said record is created by the user of a browser based light client (column 8, lines 15-34).

As per claim 17, Giniger discloses a method allowing an end user to create and store information concerning a location, said method using a system comprising a data server, at least a user device and a data communication network, said method comprising the steps of:

- a) determining the geographical coordinates of the location using said user device;
- c) transmitting said geographical coordinates and said additional data elements from said user device to said data server using said data communication network (column 12, lines 20-23, column 13, lines 31-33, column 18, lines 21-23);
- d) storing said coordinates and said additional data elements in said data server (column 7, lines 6-12, column 11, lines 38-39, column 12, lines 25-26, 34-35).

Giniger does not explicitly disclose:

- b) identifying or creating additional data elements associated to said location using said user device;

However, in an analogous art, Dussell discloses a mobile device enabling geographic coordinates of a first location to be associated with a descriptor such as a task descriptor (text and/or voice message). The descriptor is associated with a location reference such as geographic coordinates or geocode (column 7, lines 22-30, column 8, lines 27-40).

Therefore, one of ordinary skill in the art at the time the invention was made would have found it obvious to implement or incorporate Dussell's means for creating data elements relating to location in Giniger's system enabling users to accomplish a task.

As per claim 18, Giniger discloses a method as in claimed 12 wherein said coordinates are determined with the use of a GPS device (column 7, lines 6-12, 20-25, 45-53).

As per claim 19, Giniger discloses a method as claimed in claimed 17 wherein said coordinates are determined with the use of a GPS device (column 9, lines 49-60).

As per claim 20, Giniger discloses a method as claimed in claim 19 wherein said GPS device is integrated to a wireless communication device (column 9, lines 19-25, 49-55).

As per claim 21, Giniger discloses a method as claimed in claim 20 wherein said wireless communication device is a cellular telephone (column 8, lines 15-34).

As per claim 22, Giniger discloses a method allowing an end user to a record created pursuant to the method claimed in claim 12, comprising the steps of:

- a) accessing said data server using said data communication network using a wireless device (column 5, lines 50-61, column 8, lines 15-34);
- b) selecting said record said data server (column 11, lines 38-39, column 12, lines 25-26, 34-35);
- c) communicating said record over said data communication network to the user of said wireless device (column 6, lines 5-7, column 8, lines 64-65, column 11, lines 59-61, column 12, lines 43-45, column 13, lines 18-19).

As per claim 23, Giniger discloses a method as claimed in claim 12, wherein the system further comprising a second user device, said method further allowing an end user to share said information concerning a location with a second end user, said method further comprising the step of transmitting said record from said first user device to said second user device using said data communication network (column 7, lines 15-27)

As per claim 24, Giniger discloses a method as claimed in claim 17, wherein the system further comprises a second user device, said method further allowing an end user to share said information concerning a location with a second end user, said method further comprising the step of transmitting said record from said first user

device to said second user device using said data communication network (column 7, lines 15-27).

As per claim 25, Giniger discloses a system for the creation and management of location bookmarks relating to a location, said bookmark comprising geographical data elements and personalized data elements, said system comprising:

a) a data server comprising:

i) processor means for processing data (column 5, lines 64-67, column 6, lines 1-5, column 8, lines 41-47);

ii) means for encoding said geographical data elements and said personalized data elements relating to said location (column 7, lines 10-12, column 11, lines 35-38, column 12, lines 20-23);

iii) means for storing said geographical data elements and said personalized data elements on a storage medium (column 11, lines 38-39, column 12, lines 25-26, 34-35);

iv) means for selectively accessing said geographical data elements and said personalized data elements (column 6, lines 1-5, column 8, lines 61-64, column 12, lines 33-37);

v) first data transceiver means (column 6, lines 5-7, column 8, lines 64-65, column 11, lines 59-61, column 12, lines 43-45, column 13, lines 18-19);

b) at least one user device comprising:

i) means for determining the position of said location (column 5, lines 48-55, column 8, lines 23-25, 54-57);

iii) display means for displaying said geographical data elements and/or said personalized data elements ();

iv) second data transceiver means (column 12, lines 20-23, column 13, lines 31-33, column 18, lines 21-23);

c) a data communication network adapted to connect said user device to said data server via said first data transceiver means and second data transceiver means; whereby said at least one remote user device is adapted to transmit said geographical data elements and said personalized data elements to said data server, via said data communication network, in order for said geographical data elements and said personalized data elements to be encoded by said encoding means and stored on said storage medium by said storing means and whereby said at least one remote user device is adapted to retrieve said geographical data elements and said personalized data elements from said server, via said data communication network, in order for said geographical data elements and/or said personalized data elements to be displayed on said display means (column 5, lines 50-61, column 8, lines 15-34).

Giniger does not explicitly disclose:

ii) means for creating said personalized data elements data elements relating to said location, said personalized data elements being created by a user of said user device.

However, Dussell discloses a mobile device enabling geographic coordinates of a first location to be associated with a descriptor such as a task descriptor (text and/or voice message). The descriptor is associated with a location reference such as geographic coordinates or geocode (column 7, lines 22-30, column 8, lines 27-40).

Therefore, one of ordinary skill in the art at the time the invention was made would have found it obvious to implement or incorporate Dussell's means for creating data elements relating to location in Giniger's system enabling users to accomplish a task.

As per claim 26, Giniger discloses a method for allowing an end user to create and store information concerning a location, said method using a system comprising a data server, at least one user device and a data communication network, said method comprising the steps of:

- a) determining the geographical position of said location using said user device (column 5, lines 12-15, 49-67, column 7, lines 6-8, column 8, lines 15-21, 45-51);
- d) transmitting said record from said user device to said data server using said data communication network (column 12, lines 20-23, column 13, lines 31-33, column 18, lines 21-23);
- e) encoding said record with said data server (column 7, lines 10-12, column 11, lines 35-38, column 12, lines 20-23);
- f) storing said encoded record in said data server (column 11, lines 38-39, column 12, lines 25-26, 34-35).

Giniger does not explicitly disclose:

- b) creating personalized data elements associated to said location;
- c) creating a record comprising said geographical position and said personalized data elements using said user device.

However, in an analogous art, Dussell discloses a mobile device enabling geographic coordinates of a first location to be associated with a descriptor such as a task descriptor (text and/or voice message). The descriptor is associated with a location reference such as geographic coordinates or geocode (column 7, lines 22-30, column 8, lines 27-40).

Therefore, one of ordinary skill in the art at the time the invention was made would have found it obvious to implement or incorporate Dussell's means for creating data elements relating to location in Giniger's system enabling users to accomplish a task.

3. Claims 3, 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Giniger et al. (hereinafter "Giniger", US Patent No 6,199,045 B1) in view of Dussell et al. (hereinafter "Dussell", US Patent 5,938,721) and in further view of Kitano et al. (hereinafter "Kitano", US Patent No 5,926,116).

As per claim 3, Giniger, in view of Dussell, discloses a system as claimed in claim 2.

Giniger, in view of Dussell, does not explicitly disclose the system in which the geographical position data elements comprise:

- a) the latitude associated with the location;

b) the longitude associated with the location.

However, in analogous art, Kitano discloses a GPS detection means that detects current position such as a latitude and a longitude at which the portable terminal is positioned (column 4, lines 1-5, 57-60, column 5, lines 31-54).

Therefore, one of ordinary skill in the art at the time the invention was made would have found it obvious to implement or incorporate associating latitude and longitude with the location in Giniger in order for a terminal's position to be retrieved.

As per claim 10, Giniger, in view of Dussell, discloses a virtual bookmark as claimed in claim 9.

Giniger, in view of Dussell, does not explicitly disclose the system wherein the geographical position data elements comprise:

- a) the latitude associated with the location; and
- b) the longitude associated with the location.

However, in analogous art, Kitano discloses a GPS detection means that detects current position such as a latitude and a longitude at which the portable terminal is positioned (column 4, lines 1-5, 57-60, column 5, lines 31-54).

Therefore, one of ordinary skill in the art at the time the invention was made would have found it obvious to implement or incorporate associating latitude and longitude with the location in Giniger in order for a terminal's position to be retrieved.

4. Claims 5, 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Giniger et al. (hereinafter "Giniger", US Patent No 6,199,045 B1) in view of Dussell et al.



(hereinafter "Dussell", US Patent 5,938,721) in further view of Kitano et al. (hereinafter "Kitano", US Patent No 5,926,116) and in further view of Camhi (US Patent No 5,825,283).

As per claim 5, Giniger discloses a system as claimed in claim 3.

Giniger does not explicitly disclose the system comprising data elements which are adapted to contain data representations of the altitude associated with the location. However, Camhi discloses a tracking device that utilizes satellites of the Global Positioning System to provide location information such as latitude, longitude, and altitude (column 2, lines 63-67).

Therefore, one of ordinary skill in the art at the time the invention was made would have found it obvious to implement or incorporate associating altitude with the location in Giniger in order for automobile to be tracked.

As per claim 11, Giniger discloses a virtual location bookmark as claimed in claim 10.

Giniger does not explicitly disclose the system further comprising the altitude associated with the location.

However, Camhi discloses a tracking device that utilizes satellites of the Global Positioning System to provide location information such as latitude, longitude, and altitude (column 2, lines 63-67).

Therefore, one of ordinary skill in the art at the time the invention was made would have found it obvious to implement or incorporate associating altitude with the location in Giniger in order for automobile to be tracked.

5. Claims 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Giniger et al. (hereinafter "Giniger", US Patent No 6,199,045 B1) in view of Dussell et al. (hereinafter "Dussell", US Patent 5,938,721) and in further view of Camhi (US Patent No 5,825,283).

As per claim 7, Giniger, in view of Dussell, discloses a system as claimed in claim 6.

Giniger, in view of Dussell, does not explicitly disclose the system further comprising data elements which are adapted to contain data representations of the accuracy of the data representations of the latitude, the longitude and the altitude.

However, Camhi discloses a tracking device that utilizes satellites of the Global Positioning System to provide location information such as latitude, longitude, and altitude (column 2, lines 63-67).

Therefore, one of ordinary skill in the art at the time the invention was made would have found it obvious to implement or incorporate associating altitude with the location in Giniger in order for automobile to be tracked.

As per claim 8, Giniger, in view of Dussell, discloses a system as claimed in claim 1 in which the data elements are adapted to contain data representations of:  
c) an identifier associated with the location.

Giniger, in view of Dussell, does not explicitly disclose in which the data elements are adapted to contain data representations of:

- a) the latitude associated with the location;
- b) the longitude associated with the location;
- d) the altitude associated with the location.

However, Camhi discloses a tracking device that utilizes satellites of the Global Positioning System to provide location information such as latitude, longitude, and altitude (column 2, lines 63-67).

Therefore, one of ordinary skill in the art at the time the invention was made would have found it obvious to implement or incorporate associating altitude with the location in Giniger in order for automobile to be tracked.

### ***Response to Arguments***

**The Office notes the following argument(s):**

- (a) Giniger teaches the location information is not created by the user, but location information is pulled by the users from third parties databases.
  - (b) According to Dussell, a task descriptor is far from being a location bookmark.
  - (c) The task descriptors of Dussell are not created on the spot.
  - (d) The task descriptors of Dussell are not related to specific location and are not bookmarks perse.
  - (e) There is no desireability to combine the references.
  - (f) Examiner used hindsight to reconstruct the claimed invention.
6. Applicant's arguments filed have been fully considered but they are not persuasive.

**In response to:**

(a) In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., location information is created by the user) are not recited in the rejected claim(s).

Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

(b) In response to applicant's arguments, the recitation "location bookmark" has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

(c) In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., task descriptors are created on the spot) are not recited in the rejected claim(s).

Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

(d) Dussell teaches the task description includes a geocode which corresponds to the geographic location. The geographic coordinates of the first location are associated

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with a descriptor indicative of the first location (column 1, lines 61-65, column 2, lines 1-7, 19-25).

Therefore, Dussell indeed discloses task descriptors are related to specific location and are bookmarks.

(e) In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, one of ordinary skill in the art at the time the invention was made would have found it obvious to implement or incorporate Dussell's data elements representing the geographical position and a user-created identifier associated with the location in Giniger's system enabling information to be displayed as highlighted markers on a map.

(f) In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Barbara N. Burgess whose telephone number is (571) 272-3996. The examiner can normally be reached on M-F (8:00am-4:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Ettinene can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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